

## REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 2-22 were pending in this application. In this Amendment, claims 2-7, 19, and 22 have been canceled. Claims 8-18 and 20-21 have been amended. No new subject matter has been added. Accordingly, claims 8-18 and 20-21 will be pending upon entry of this Amendment.

In the Office Action mailed May 8, 2008, the Examiner objected to the abstract (for containing two paragraphs and exceeding 150 words), the specification (published patent application paragraphs [0027], [0043], [0047], [0084] and [0118] for various minor informalities), and the claims (for various informalities). Under 35 U.S.C. § 112, first paragraph, the Examiner rejected claims 2, 7-12, and 20-22 as failing to comply with the written description requirement. Under 35 U.S.C. § 103(a), the Examiner rejected claims 2-7, 12-18, and 20-22 as being unpatentable over U.S. Patent Application Publication No. 2003/0095328 to Boehm et al. in view of U.S. Patent No. 6,917,421 to Wihl et al.

The Examiner also allowed claims 8-11 and indicated that claim 19 would be allowable if rewritten in independent form to include all the limitations of its base claim and any intervening claims. Applicant acknowledges with thanks this indication of allowed claims and allowable subject matter. Consistent with the Examiner's indication, and to advance prosecution of this application, Applicant has canceled rejected claims without prejudice to or disclaimer of the subject matter recited therein, and has amended claims to include the subject matter found allowable in claim 19. As set forth in detail below, Applicant has also amended the abstract,

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specification, and claims substantially as suggested by the Examiner (with a minor exception noted below), to place this application in condition for allowance.

**Specification Amendments**

Applicant has amended the abstract to conform to the requirements noted by the Examiner. Applicant has also amended the paragraphs of the specification noted by the Examiner, consistent with the Examiner's suggestions.

**Rejections Of Claims 2-7, 12-18, And 20-22 Under 35 U.S.C. § 103(a)**

To advance prosecution of this application, claims 2-7, 19, and 22 have been canceled without prejudice to or disclaimer of the subject matter contained therein. Claim 12 has been amended to include all the limitations of canceled claim 19, which was deemed to be allowable if amended in independent form to include all the limitations of claim 12. Independent claims 20-21, which recite a method and a computer readable program, respectively, have each been amended to include all the subject matter that the Examiner found in allowable in claim 19. Accordingly, remaining claim 12, and its dependent claims 12-18, as well as claims 20-21, should be patentable over the cited art.

In addition, the preamble in each of claims 12, 20, and 21 has also been amended for more clarity. For example, claim 12 has been amended from "An image processor that is used in combination with a camera comprising:" to now recite --An image processor that is used in combination with a camera, the camera comprising:--.

**Rejections Of Claims 2, 7-12, And 20-22 Under 35 U.S.C. § 112, First Paragraph**

The phrase "while said photosensitive surface is stationary" that was objected to as lacking support in the specification, has been replaced in the remaining independent claims 8 and

12 with the phrase “while said photosensitive surface is *positioned at a fixed distance with respect to a sample that produces the imaging light*” to clarify that the distance between the sample and imaging surface is fixed during imaging, that is, the photosensitive surface is stationary with respect to the sample. This is clearly supported in the present application by Figures 1, 2, and 6 and the corresponding discussion. For example, paragraph [0085] states in part:

In order to take an image with the camera 100, the subject S is placed on the mount 110 *at a predetermined position*. Then, the knob 132 is used to move the camera body 130 in the up-and-down direction in FIG. 1. The *camera body 130 is fixed at an appropriate position where the subject S is in focus*.

(Emphasis added.) Accordingly, Applicant respectfully submits that claims 8-12 and 20-21 comply with the written description requirement of 35 U.S.C. § 112, first paragraph.

### **Claim Objections**

The specific claim objections in the Office Action are listed below under the sub-paragraphs set forth in the Office Action, together with a summary of Applicant's response to each specific objection.

a) Claims 2-6, 12-17, 20, and 21 were objected to as reciting the “same kind of elements,” which was deemed as not making sense. As noted, claims 2-6 have been canceled. Independent claim 12 has been amended to recite substantially the same subject matter as that objected to by the Examiner, but in a manner intended to improve the clarity. Amended claim 12 recites image data with which *a plurality of images comprising a respective image corresponding to signals received from only one kind of element of each different kind of elements can be produced* [emphasis added to show amended language], which highlights that

the image data is formed from different signals in which a plurality of images can be produced where each image corresponds to a different kind of element, as was the intention in the original claim language. Support for this can be found in the present specification at, for example, paragraph [0107], which states in part:

... image data with which the same number of images produced by the same kind of elements are provided as the number of the elements. More specifically, in this embodiment, the circuit board 137 generates image data with which the following three kinds of images can be displayed on the monitor M: the image of the subject surface segment XR taken by the element that is sensitive to the light in the red spectral region in response to the light in the red spectral region, the image of the subject surface segment XG taken by the element that is sensitive to the light in the green spectral region in response to the light in the green spectral region, and the image of the subject surface segment XB taken by the element that is sensitive to the light in the blue spectral region in response to the light in the blue spectral region.

The above paragraph illustrates that the term objected to by the Examiner (the "image data with which the same number of images produced by the same kind of elements") denotes a plurality of images in which each image corresponds to a different kind of element (color in this case) and the kinds of images (three) correspond to the number of different elements (3 colors), where each image corresponds to a different element (either red, green, or blue). Accordingly, claim 12 has been amended to more clearly recite that each *respective image* (corresponds to *signals received from only one kind of element of each different kind of elements*).

b) Claims 2, 7-12, and 20-22 were objected to as reciting "imaging lights," whereas it was suggested by the Examiner that the term "reflected lights" should be used to remove ambiguity. The Examiner recommended that the phrase "to light in different wavelengths" be amended to recite --to the imaging light in different wavelengths--.

Applicants respectfully point out that the "initial" imaging lights referred to by the Examiner and described in the specification and recited in the claims are themselves reflected lights (see the imaging light beam incident on objective lens 133 in Figure 1), so that their recitation in the current claims is correct, and does not create any ambiguity. The remaining minor informalities listed under sub-paragraph b) have been addressed as suggested by the Examiner.

- c) Claims 2 and 7 have been canceled, thereby rendering their objection moot. In claims 8, 12, and 20-21, the term "said signal" has been replaced with --said predetermined signals-- as suggested by the Examiner.
- d) Claim 2 has been canceled, thereby rendering its objection moot.
- e) Claim 7 has been canceled, thereby rendering its objection moot. The last line of claim 8 has been amended to recite "the predetermined display" as suggested by the Examiner.
- f) Claim 10 has been amended for clarity to recite that *each* subject surface segment of said plurality of subject surface segments is separated from *an* adjacent subject surface segment.
- g) Claim 11 has been amended to change the "from" to --form--.
- h) Claim 22 has been amended to delete the "the" from the phrase "a the photosensitive surface" as suggested by the Examiner.

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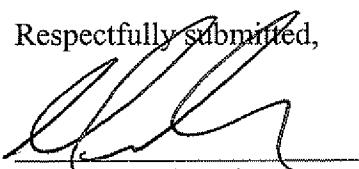
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In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicant's undersigned representative at the number listed below.

PAUL, HASTINGS, JANOFSKY & WALKER LLP  
875 15th Street, N.W.  
Washington, D.C. 20005  
Tel: 202/551-1700

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Respectfully submitted,

By:   
Michael Bednarek  
Registration No. 32,329

Customer No. 36183  
MB/SPA/RAR/ggb